



Rep. John A. Fritchey

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LRB096 20797 AMC 39635 a

1 AMENDMENT TO HOUSE BILL 6053

2 AMENDMENT NO. _____. Amend House Bill 6053, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Illinois Accurate Government Records Act.

7 Section 5. Definitions. For purposes of this Act:

8 "Individual" means a natural person.

9 "Maintain" means to maintain, collect, use, or
10 disseminate.

11 "Public body" means all legislative, executive,
12 administrative, or advisory bodies of the State, State
13 universities and colleges, counties, townships, cities,
14 villages, incorporated towns, school districts, and all other
15 municipal corporations, boards, bureaus, committees, or
16 commissions of this State, any subsidiary bodies of any of the

1 foregoing, including, but not limited to, committees and
2 subcommittees thereof, and a School Finance Authority created
3 under Article 1E of the School Code. "Public body" does not
4 include a body established by the Child Death Review Team Act,
5 individual elected or appointed officials, individual
6 employees of a public body, the legislative offices of members
7 of the General Assembly, the Department of Corrections, the
8 Department of Juvenile Justice, or the Prisoner Review Board.

9 "Record of personal information" means any information
10 collected or maintained in a system of records by a public body
11 that is attributable to an individual by name, identifying
12 number, or other form of identification assigned to the
13 individual. "Record of personal information" does not include
14 any information collected or maintained pursuant to the
15 Personnel Record Review Act, the School Student Record Act, or
16 the federal Driver's Privacy Protection Act.

17 "Routine use" means, with respect to the disclosure of a
18 record, the use of the record for a purpose that is compatible
19 with the purpose for which it was collected, including use in
20 the collection of delinquent child support or of any State debt
21 or by a governmental agency to assist with an investigation or
22 the prevention of fraud.

23 "System of records" means a group of records collected or
24 maintained by a public body from which information is
25 attributable to an individual and can be retrieved by name,
26 identifying number, or other form of identification assigned to

1 an individual.

2 Section 10. Access to records of personal information.

3 (a) A public body shall make available to an individual for
4 inspection and copying any record of personal information
5 attributable to that individual in a system of records
6 collected or maintained by the public body. Requests for
7 inspection or copies shall be made in writing and directed to
8 the public body. Written requests may be submitted to a public
9 body via personal delivery, mail, telefax, or other means
10 available to the public body. All requests for inspection and
11 copying received by a public body shall immediately be
12 forwarded to its Freedom of Information officer or designee.

13 (b) Each public body shall comply with or deny a request
14 for inspection or copying any record of personal information
15 within 10 business days after its receipt of the request,
16 unless the public body provides the individual with a written
17 explanation detailing the circumstances causing a delay and a
18 date no more than 30 days after the date of the receipt by
19 which the public body will comply or deny a request.

20 (c) A public body shall not comply with a request to
21 inspect or copy any record of personal information for any of
22 the following reasons:

23 (1) the record of personal information is maintained by
24 a public body that performs or has as a principal function
25 any activity pertaining to the prevention, control, or

1 reduction of crime and the record of personal information
2 is maintained in a system of records maintained for the
3 purpose of criminal intelligence or investigation and
4 would not otherwise be accessible under the Freedom of
5 Information Act;

6 (2) the disclosure of a record of personal information
7 would reveal the identity of a source who furnished
8 information to the public body under an express or implied
9 promise of confidentiality;

10 (3) the record of personal information is part of or
11 contained in testing or examination materials or scoring
12 keys used solely to determine individual qualifications
13 for appointment or promotion in public employment, or used
14 as or to administer a licensing examination or an academic
15 examination, the disclosure of which would compromise the
16 objectivity, fairness, or effectiveness of the testing or
17 examination process;

18 (4) the record of personal information is part of or
19 contained in investigative reports and materials related
20 to an individual that is the subject of an upcoming,
21 ongoing, or pending civil or criminal action,
22 administrative investigation, or administrative
23 proceeding;

24 (5) the record of personal information is part of or
25 contained in information required to be withheld from the
26 individual to whom it pertains by statute or judicial

1 decision or authorized to be so withheld by constitutional
2 or statutory privilege; or

3 (6) the public body does not maintain a system of
4 records applicable to the request for records of personal
5 information.

6 (d) Nothing in this Section shall be construed to permit or
7 require a public body to withhold or deny access to a record of
8 personal information maintained in a system of records where
9 any statute, administrative rule, rule of court, judicial
10 decision, or other law authorizes or allows an individual to
11 gain access to a record of personal information.

12 (e) Requests calling for all records falling within a
13 category shall be complied with unless there is no way to
14 narrow the request and the burden on the public body outweighs
15 the public interest in the information. Before denying a
16 request, the public body shall extend to the person making the
17 request an opportunity to confer with it in an attempt to
18 reduce the request to manageable proportions. A public body
19 responding to a categorical request by stating that compliance
20 would unduly burden its operation shall specify the reasons why
21 it would be unduly burdensome and the extent to which
22 compliance will so burden the operations of the public body.

23 (f) An individual's request to one department for access to
24 a record of personal information shall not oblige that
25 department to seek out any records of personal information
26 located in another department.

1 Section 15. Changes to records of personal information.

2 (a) A public body shall permit an individual to submit a
3 written request for changes to a record of personal information
4 if the individual believes the information is not accurate,
5 relevant, timely, or complete. A request must state the
6 information to be changed, the reason for the change, and any
7 information supporting the request for change.

8 (b) Within 30 days after the date of receipt of such
9 request, a public body shall either (1) change a record of
10 personal information in accordance with the request, or (2)
11 inform the individual of its decision not to change the
12 personal record and provide a specific reason for the decision,
13 the description of the procedures established by the public
14 body for the individual to request the head of the public body
15 or a designee of the head of the public body review the
16 decision, and the name of the persons responsible for the
17 denial of the request.

18 (c) If a public body does not make the requested change,
19 the public body shall permit the individual to appeal the
20 decision to the head of the public body or a designee of the
21 head of the public body. The head of the public body or the
22 designee shall review and make a final determination not later
23 than 30 days after the date of receipt of the appeal.

24 (d) If the head of the public body or designee affirms the
25 decision of the public body not to change the record of

1 personal information in accordance with the request, the public
2 body shall permit the individual to file with the public body a
3 statement of no more than 1,500 words setting forth the reasons
4 for the individual's disagreement.

5 (e) If the public body discloses to any person the portion
6 of the record for which the individual has filed a statement of
7 under subsection (d), the public body shall clearly note in the
8 record that a statement has been filed and, upon request, make
9 a copy of the statement available. The public body may provide
10 a concise statement of the reasons of the public body for not
11 changing the record.

12 Section 20. Limitations on a public body's disclosure of
13 records of personal information. No public body shall disclose
14 any record of personal information to any person or public
15 body, except pursuant to a written request by or with the prior
16 written consent of the individual to whom the record pertains,
17 unless the record of personal information is disclosed:

18 (1) to officers and employees of the public body that
19 maintains the record who have a need for the record in the
20 performance of their duties;

21 (2) pursuant to a request under the Freedom of
22 Information Act;

23 (3) for a routine use;

24 (4) to a recipient who has provided the public body
25 with advance adequate written assurance that the record

1 will be used solely as a statistical research or reporting
2 record, and the record is to be transferred in a form that
3 is not individually identifiable;

4 (5) to the State archives as a record that has
5 sufficient historical or other value to warrant its
6 continued preservation;

7 (6) to another public body or to an instrumentality of
8 any governmental jurisdiction within or under the control
9 of the United States for a civil or criminal law
10 enforcement activity if the activity is authorized by law,
11 and if the head of the public body or instrumentality has
12 made a written request to the public body that maintains
13 the record specifying the particular portion desired and
14 the law enforcement activity for which the record is
15 sought;

16 (7) to a person pursuant to a showing of compelling
17 circumstances affecting the health or safety of an
18 individual if upon such disclosure notification is
19 transmitted to the last known address of the individual;

20 (8) to the General Assembly, a joint committee of the
21 General Assembly, or a committee or subcommittee of either
22 chamber;

23 (9) to either the Comptroller or the Auditor General,
24 or any of his or her authorized representatives, in the
25 course of the performance of his or her duties;

26 (10) to a consumer reporting agency as permitted or

1 allowed by federal or State statute; or

2 (11) pursuant to federal or State law or the order of a
3 court.

4 Section 25. Limitations on a public body's maintenance of
5 systems of records.

6 (a) Each public body that maintains a system of records
7 shall:

8 (1) maintain only the information about an individual
9 that is relevant and necessary to accomplish a purpose of
10 the public body that is required or authorized by the
11 Illinois Constitution or statute or mandated by the federal
12 government;

13 (2) post a notice on the website of the public body
14 with a description of the types of system of records
15 maintained by the public body;

16 (3) maintain all records that are used by the public
17 body in making any determination about any individual with
18 accuracy, relevance, timeliness, and completeness as is
19 reasonably necessary to ensure fairness to the individual
20 in the determination;

21 (4) establish appropriate and reasonable safeguards to
22 ensure compliance with the provisions of this Act, the
23 security and confidentiality of records, and protect
24 against anticipated threats or hazards that could result in
25 any injury, including rules of conduct for persons involved

1 in the design, development, operation, disclosure, or
2 maintenance of records containing personal information;
3 and

4 (5) maintain no record of personal information in a
5 system of records describing how any individual exercises
6 rights guaranteed by the First Amendment to the United
7 States Constitution or Section 3, 4, or 5 of Article I of
8 the Illinois Constitution, unless maintenance is
9 authorized by statute, authorized by the individual, or
10 pertinent to and within the scope of an authorized
11 investigation or the description of the exercise of rights
12 comprises evidence of criminal activity.

13 (b) Prior to bringing an action in accordance with Section
14 30 alleging violations of subsection (a), the individual shall
15 notify the public body that the individual objects to the
16 public body's maintenance of the record of personal information
17 and the public body shall have an opportunity to decide whether
18 to remove or amend the disputed information.

19 Section 30. Civil remedies.

20 (a) An individual may bring a civil action against a public
21 body in a circuit court of the State, after appropriate
22 administrative remedies have been exhausted, as follows:

23 (1) if a public body fails to comply with Section 10 of
24 this Act, then the court may order the public body to
25 disclose a record of personal information;

1 (2) if a public body fails to comply with Section 15 of
2 this Act, then the court may order the public body to
3 accept a statement of disagreement from the individual and
4 make the statement part of the record;

5 (3) if a public body fails to comply with Section 20 of
6 this Act, and such violation has an adverse effect on the
7 individual, and the public body acted in a manner that was
8 intentional or willful, then the court may order the public
9 body not to continue to disclose the individual's record of
10 personal information; and

11 (4) whenever a public body fails to comply with part
12 (3) or (5) of Section 25 of this Act, and such violation
13 has an adverse effect on the individual, and the public
14 body acted in a manner that was intentional or willful, the
15 court may order the public body to expunge information from
16 the individual's personal record.

17 (b) If an individual prevails in a civil action under this
18 Section, then the court may order the public body to pay the
19 individual all or a portion of the costs of maintaining the
20 action, including reasonable attorney's fees.

21 (c) An action may be brought against a public body of the
22 State in the circuit court in Cook or Sangamon counties. An
23 action may be brought against any other public body in the
24 circuit court for the county where the public body is located.
25 In any action considered by the court, the court shall consider
26 the matter de novo, and shall conduct such in camera

1 examination of the requested records as it finds appropriate to
2 determine if such records or any part thereof may be withheld
3 under any provision of this Act.

4 (d) No action shall be brought later than 2 years after
5 notification of the public body's denial.

6 (e) If an individual brings any action under this Section
7 that is not well grounded in fact, or is not warranted by
8 existing law or a good-faith argument for the extension,
9 modification, or reversal of existing law, then the court may
10 impose an appropriate sanction upon the individual, which may
11 include an order to pay the public body the amount of
12 reasonable expenses incurred because of the filing of the
13 action, including reasonable attorney's fees.

14 Section 35. Rights of legal guardians. For the purposes of
15 this Act, the parent of any minor, or the legal guardian of any
16 individual who has been declared to be incompetent due to
17 physical or mental incapacity or age by a court of competent
18 jurisdiction, may act on behalf of the individual.".